

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	Case No. 2:06-CR-146
	:	
vs.	:	JUDGE GRAHAM
	:	
WENDELL CALLAHAN	:	EXPEDITED ACTION DOCKET
	:	
Defendant.	:	

DEFENDANT’S MOTION TO REDUCE SENTENCE,
PURSUANT TO 18 U.S.C. § 3582(c)(2),
IN AN “AGREED DISPOSITION CASE”

Pursuant to 18 U.S.C. § 3582(c)(2), Defendant Callahan, through undersigned counsel, hereby moves this Court for an Order reducing his sentence from 110 months to 100 months based on the retroactive application of the November 1, 2010 crack amendment.

Respectfully submitted,

STEVEN S. NOLDER
FEDERAL PUBLIC DEFENDER

/s/ Steven S. Nolder

Steven S. Nolder (0037795)
Federal Public Defender
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MEMORANDUM

At Defendant's original sentencing hearing, his base offense level was 24 given the quantity of crack cocaine for which he was held accountable. Moreover, Defendant's criminal history category was determined to be VI. A combination of these two Guideline determinations yielded a sentencing range of 100 to 125 months imprisonment. Defendant was then sentenced to serve 110 months in prison.

On November 1, 2010, as part of the congressional directive embedded in the Fair Sentencing Act of 2010, the United States Sentencing Commission promulgated Guideline Amendment 748 which calibrated the crack cocaine guidelines, found in USSG §2D1.1, to an 18:1 ratio. On June 30, 2011, the Commission promulgated Guideline Amendment 750 which effectively amended USSG §1B1.10 to authorize the retroactive application of Guideline Amendment 748 to all defendants who are serving crack sentences as long as they meet certain eligibility criteria.

On October 26, 2011, counsel for the government, representatives of the United States Probation Office and undersigned counsel met to consider the merits of Defendant's case. All agreed to recommend to this Court that Defendant met the Commission's eligibility requirements for the retroactive application of the Guideline Amendment 748 to his case.

After the November 1, 2010 crack amendment is retroactively applied, Defendant's base offense level is reduced to 23. This reduction yields a new advisory sentencing range of 92 to 115 months when combined with Defendant's criminal history category. Finally, the parties jointly recommend that this Court reduce Defendant's sentence to 100 months.

In arriving at this recommended sentence, the parties ascertained the point in the original Guideline range where Defendant was first sentenced as well as the extent of any downward

departure due to his substantial assistance or downward variance after considering the statutory factors codified in 18 U.S.C. §3553(a), if applicable. Finally, the parties also considered unique facts about both Defendant's case and behavior while incarcerated to conclude that his early release did not present a danger to the safety of the public.

For the reasons articulated herein, Defendant Callahan, through undersigned counsel, herein moves this Court for an Order reducing his sentence to 100 months. Defendant has been apprised of this proposed agreed resolution and this motion is submitted with both his knowledge and authorization.

Respectfully submitted,

STEVEN S. NOLDER
FEDERAL PUBLIC DEFENDER

/s/ Steven S. Nolder

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the Motion to Reduce Sentence Pursuant to § 3582(c)(2) was served electronically upon Kenneth Parker First Assistant United States Attorney, this 4th day of November, 2011.

/s/ Steven S. Nolder
Steven S. Nolder (0037795)
Federal Public Defender